

NATIONAL STAGE

§ 1.491 National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22 (1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.495.

[67 FR 523, Jan. 4, 2002]

§ 1.492 National stage fees.

The following fees and charges are established for international applications entering the national stage under 35 U.S.C. 371:

(a) The basic national fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

By a small entity (§ 1.27(a)) ...	\$165.00
By other than a small entity	\$330.00

(b) Search fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

(1) If an international preliminary examination report on the international application prepared by the United States International Preliminary Examining Authority or a written opinion on the international application prepared by the United States International Searching Authority states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all of the claims presented in the application entering the national stage:

By a small entity (§ 1.27(a)) ...	\$0.00
By other than a small entity	\$0.00

(2) If the search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.27(a)) ..	\$50.00
By other than a small entity	\$100.00

(3) If an international search report on the international application has been prepared by an International Searching Authority other than the United States International Searching Authority and is provided, or has been previously communicated by the International Bureau, to the Office:

By a small entity (§ 1.27(a)) ...	\$215.00
By other than a small entity	\$430.00

(4) In all situations not provided for in paragraphs (b)(1), (b)(2), or (b)(3) of this section:

By a small entity (§ 1.27(a)) ...	\$270.00
By other than a small entity	\$540.00

(c) The examination fee for an international application entering the national stage under 35 U.S.C. 371 if the basic national fee was not paid before December 8, 2004:

(1) If an international preliminary examination report on the international application prepared by the United States International Preliminary Examining Authority or a written opinion on the international application prepared by the United States International Searching Authority states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all of the claims presented in the application entering the national stage:

By a small entity (§ 1.27(a)) ...	\$0.00
By other than a small entity	\$0.00

(2) In all situations not provided for in paragraph (c)(1) of this section:

By a small entity (§ 1.27(a)) ...	\$110.00
By other than a small entity	\$220.00

(d) In addition to the basic national fee, for filing or on later presentation at any other time of each claim in independent form in excess of 3:

By a small entity (§ 1.27(a)) ...	\$110.00
By other than a small entity	\$220.00

(e) In addition to the basic national fee, for filing or on later presentation at any other time of each claim (whether dependent or independent) in excess of 20 (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):

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By a small entity (§1.27(a)) ... \$26.00
By other than a small entity \$52.00

(f) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim, per application:

By a small entity (§1.27(a)) ... \$195.00
By other than a small entity \$390.00

(g) If the excess claims fees required by paragraphs (d) and (e) of this section and multiple dependent claim fee required by paragraph (f) of this section are not paid with the basic national fee or on later presentation of the claims for which the excess claims or multiple dependent claim fees are due, the fees required by paragraphs (d), (e), and (f) of this section must be paid or the claims canceled by amendment prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency in order to avoid abandonment.

(h) Surcharge for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage (§1.491(a)) pursuant to §1.495(c):

By a small entity (§1.27(a)) ... \$65.00
By other than a small entity \$130.00

(i) For filing an English translation of an international application or of any annexes to an international preliminary examination report later than thirty months after the priority date (§§1.495(c) and (e))—\$130.00.

(j) Application size fee for any international application for which the basic national fee was not paid before December 8, 2004, the specification and drawings of which exceed 100 sheets of paper, for each additional 50 sheets or fraction thereof:

By a small entity (§1.27(a)) ... \$135.00
By other than a small entity \$270.00

[70 FR 3892, Jan. 27, 2005, as amended at 70 FR 5054, Feb. 1, 2005; 70 FR 30365, May 26, 2005; 70 FR 35378, June 20, 2005; 72 FR 46902, Aug. 22, 2007; 73 FR 55055, Sept. 28, 2007; 73 FR 47541, Aug. 14, 2008]

§1.495 Entering the national stage in the United States of America.

(a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time

periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

(1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and

(2) The basic national fee (see §1.492(a)).

(c)(1) If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date, the Office will notify the applicant if he or she has omitted any of:

(i) A translation of the international application, as filed, into the English language, if it was originally filed in another language and if any English language translation of the publication of the international application previously submitted under 35 U.S.C. 154(d) (§1.417) is not also a translation of the international application as filed (35 U.S.C. 371(c)(2));

(ii) The oath or declaration of the inventor (35 U.S.C. 371(c)(4) and §1.497), if a declaration of inventorship in compliance with §1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1;

(iii) The search fee set forth in §1.492(b);

(iv) The examination fee set forth in §1.492(c); and

(v) Any application size fee required by §1.492(j).

(2) A notice under paragraph (c)(1) of this section will set a period of time within which applicant must provide